

BUENA PET CLINIC

Arizona Board of Veterinary Examiners
1740 W. Adams Street Suite 4600
Phoenix, Arizona 85007

SUBJECT: INQUIRY 22-47 PREMISE INSPECTION

In response to your inquiry I submit the following information for your review.

R3-11-502(K)(3)(h)

As stated in your letter dated November 4, 2021 a state inspection conducted in September 2019 revealed inadequacies in our recording of controlled substance usage. Following the inspectors recommendations, policies were instituted to improve our record keeping.

Increased efforts were undertaken to record use and storage of controlled substances including installation of a dedicated safe to store backup containers, limiting the number of containers in our dispensing cabinet to one open vial of each drug for daily use and designating one employee to conduct a weekly audit of dispensing records in our daily logs. A second employee continued to order and record drug purchases in a separate log. These policies were in place throughout the end of 2019, all of 2020 and early 2021. Due to COVID virus restrictions we did not receive a follow up inspection in 2020. If we had we would have been found to be in compliance.

During early 2021 it became increasingly difficult to maintain our weekly audit policy. Due to staff turnover, COVID quarantine requirements and illness issues, maternity leave and injury we experienced staff shortages for an extended period. When the employee charged with conducting the weekly audits left the practice it became more and more difficult to the degree that the policy was unintentionally suspended. We did, however, maintain our logs of daily use detailing the drug, amount of medication, date of use and doctor ordering the medication.

I accept responsibility for failing to designate an employee to maintain weekly audits and declination of our controlled substance use. To be honest, I did not have enough experienced

[Pick the Date]

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staff to assign this duty while we were replacing and training new employees to conduct routine duties of patient care during an extremely demanding and stressful period of nearly 2 years. My doctors and staff experienced unprecedented mental and physical strain while attempting to satisfy the increased demand for veterinary services from pet owners with reduced resources of time and personnel.

After our re-inspection my office manager, an experienced technician and I conducted independent audits of our controlled substance use and updated our declaration from January 2021 to the date of our inspection. While a number of subtraction errors were identified and corrected I am sure there are no substantial discrepancies between the amounts of drugs purchased and dispensed and have no evidence or concerns for any illicit diversion or misuse of drugs intended for patient use. Following our September 28, 2021 inspection we immediately re-instituted our weekly auditing conducted by one designated technician and verification by our office manager. I hope the board will take under consideration the challenges we, like most practices, have experienced during the past year+ and recognize the prompt response taken to correct the deficiencies identified. My employees are dedicated compassionate people who on a daily basis do their best to adhere to the regulatory requirements of their job. I am completely confident in their best intentions to adhere to their duties. Our logs are currently as accurate and complete as to the best of our abilities. We have finally achieved stable and capable staffing levels and our current policies will remain in place.

R3-11-502(H)(3)


With regard to the requirement to record pulse and respiration within 15 minutes of induction of anesthesia, I would suggest that this is an isolated incident. It does not by any means indicate that this patient was not monitored properly during this period. Anesthesia specialists advise that the most critical period of anesthesia is the first 5-7 minutes after induction. Understanding this concept, our technicians are trained to assess pulse and respiration by auscultation immediately prior to and after induction and intubation. Our technicians work in teams of two to induce and maintain anesthesia for surgical and dental procedures. When the patient is intubated continuous monitoring by pulse oximetry is initiated. After transferring the patient to the surgery suite or dental prophylaxis table, additional vital sign parameters are monitored by Surgivet electronic equipment. I cannot explain why the monitored parameters were not recorded within the 15 minute time period for the patient in question. It is established protocol in our practice to monitor continuously and record data every five minutes. We do our best to adhere to this policy for every patient. Unfortunately there are circumstances that arise from time to time which may interfere with our intentions, such as a team member being called to assist a colleague with an unruly patient, training a new staff member on intubation technique, correcting a minor complication with the anesthetized patient, or simply a necessary bathroom break.

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I hope the Board would not construe this unusual lapse of an administrative task is indicative of less than excellent care for each and every one of our surgical patients. We will continue to do our very best for every patient in the future despite the challenges we face in this new practice environment.

In house training sessions are planned for the near future to emphasize the importance of close monitoring and recording of vital signs by our technician staff for patients undergoing anesthetic procedures. I apologize to the board for creating these circumstances requiring their time and attention. I take pride in this clinic and its reputation of providing excellent and compassionate patient care for over fifty years. I am committed to providing excellent individualized patient care in the future.

RESPECTFULLY,

A handwritten signature in cursive script that reads "Gene T. Nightengale, DVM". The signature is written in black ink and is positioned below the word "RESPECTFULLY,".

Gene T. Nightengale, DVM

Buena Pet Clinic 900 North Swan Road Tucson Arizona

DOUGLAS A. DUCEY
- GOVERNOR -



VICTORIA WHITMORE
- EXECUTIVE DIRECTOR -

ARIZONA STATE VETERINARY MEDICAL EXAMINING BOARD

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INVESTIGATIVE DIVISION REPORT

TO: Arizona State Veterinary Medical Examining Board

FROM: Investigative Division

RE: Case: 22-47

Complainant(s): Arizona State Veterinary Medical Examining Board

Respondent(s): Gene Nightengale, DVM (License: 1629)

SUMMARY:

Complaint Received at Board Office: 10/20/21

Board Discussion: 1/19/22

APPLICABLE STATUTES AND RULES:

Laws as Amended August 2018
(Lime Green); Rules as Revised
September 2013 (Yellow).

On October 20, 2021, the Arizona State Veterinary Medical Examining Board voted to open an investigation after reviewing results from premises inspection conducted at Buena Pet Clinic on September 28, 2021.

The Board noted that there were repeat premises violations found from the inspection conducted on November 6, 2019 that had been previously reported as corrected.

PROPOSED 'FINDINGS of FACT':

1. At the October 20, 2021, Arizona Veterinary Medical Examining Board Meeting, the Board opened an investigation regarding Respondent's non-compliant premises as exhibited at the premises inspections conducted on November 6, 2019 and September 28, 2021. At the November 6, 2019 inspection multiple potential violations were found; afterwards Respondent reported the potential violations had been corrected. However, at the September 28, 2021 re-inspection, repeat potential violations were identified. Those potential violations were:

- a. **R3-11-502(K)(3)(h)** Need decremented amounts in/on the Controlled Drug Dispensing Logs as well as correct balances on hand;
- b. **R3-11-502 (H) (3)** Need consistency recording heart rate and respiration rate every 15 minutes or less after anesthesia is administered.

2. A Letter of Inquiry was sent to Respondent asking him to respond to the allegations of premises non-compliance. Respondent responded stating that after the 2019 premises inspection, policies were instituted to improve their record keeping. These improvements were maintained throughout 2019, 2020, and early 2021. However, in early 2021 it became increasingly difficult to maintain the implemented changes due to staff turnover, Covid quarantine requirements and illness issues, maternity leave and injury, which resulted in staff shortages for an extended period of time.

3. Respondent further stated that he suspects that the lack of recording pulse and respiration rate every 15 minutes while a pet was under anesthesia was an isolated incident. He believes that the patient was monitored properly as his technical staff are trained to assess pulse and respiration by auscultation immediately prior to and after induction and intubation. The patient is continuously monitored by pulse oximetry. Respondent stated that he cannot explain why the parameters were not recorded within the 15 minute time period for the patient in question. It is practice protocol to continuously monitor and record data every five (5) minutes on each patient and they do their best to adhere to this policy. Respondent explained that unfortunately there are circumstances that arise from time to time that may interfere with their intentions.

The information contained in this report was obtained from the case file, which includes the complaint, the respondent's response, any consulting veterinarian or witness input, and any other sources used to gather information for the investigation.

TR

Tracy A. Riendeau, CVT
Investigative Division